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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,816	11/20/2001	Michael Kreindel	KREINDEL 3	8834

7590

01/02/2004

BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, DC 20001

EXAMINER

GIBSON, ROY DEAN

ART UNIT	PAPER NUMBER
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3739

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DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/988,816

Applicant(s)

KREINDEL, MICHAEL

Examiner

Roy D. Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-11 and 13-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,9-11,20,21 and 24 is/are rejected.
- 7) ☐ Claim(s) 3-8,13-19,22 and 23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Entry of Amendment

Applicant's amendment filed on Oct. 10, 2003, as Paper No. 8, is acknowledged.
Claims 1, 3-11 and 13-24 are currently pending.

Prior Rejections or Objections

The following comments pertain to the rejections or objections in the most recent Office action, Paper No. 7, mailed on July 10, 2003. Rejections under 35 U.S.C. 102 are withdrawn, however, new grounds of rejection are presented below.

Specification

The disclosure is objected to because of the following informalities: on page 2, in line 21, after "the" the phrase "RF energy" should be inserted.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1, 9-11, 20, 21 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Ein-Gal (6,416,514).

As to claim 1, Ein-Gal discloses a system capable of treating skin irregularities (growths such as pigmented lesions) comprising:

two or more electrodes (needles 12) to apply RF energy to the surface of the skin;

a RF pulse generator (28) configured to generate pulses of current having a duration of 10-40 ms (which overlaps 2-500 ms); and wherein the pulse consists of a train of shorter pulses (col. 3, lines 51-57 and col. 4, lines 11-16 and lines 45-53).

As to claims 9-10, Ein-Gal discloses input means for determining the pulse duration or setting the pulse duration from 10-40 msec.

As to claims 11 and 24, Ein-Gal discloses a method for selective thermal treatment of skin irregularities comprising the steps essentially as claimed wherein a growth is interpreted as including a pigmented lesion (col.11, lines 51-57).

As to claim 20, Ein-Gal discloses the RF frequency in the range of 200 kHz – 1MHz (which overlaps the claimed range of 300 kHz -100 MHz and col. 2, lines 62-67).

As to claim 21, Ein-Gal discloses output power of the RF energy from about 0-100 W (which overlaps the claimed range of 5-500 W and col. 2, lines 62-67).

Allowabl Subject Matter

Claims 3-8, 13-19 and 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goble (6,6228,081) discloses an electrosurgery system and method with pulses (Figure 6A) with a pulse length not more than 100 microsec; Aita et al. (6,156,031) disclose a method or TMR with RF energy supplied in bursts involving a train of pulses, but the device is not specifically adapted to supply energy to the surface of the skin; and Malis et al. (5,318,563) disclose a bipolar generator providing bursts of pulses on the order of 0.5 microsec rate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 703-308-3520. The examiner can normally be reached on M-F, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 703-308-0994. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0873.


Roy D. Gibson
Primary Examiner
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December 22, 2003